THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.13752 of 2000

Dated : 26.07.2007

Between:

Narotham Das Goswamy S/o late Mahanth Sri Bijoy Krishnadas

..... PETITIONER

And:

Assistant Commissioner, Endowments Department,
Srikakulam District and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

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ORDER:

This writ petition is filed questioning the order dated 27.04.2000, passed by the Assistant Commissioner of Endowments, Srikakulam-first respondent herein, whereby, the first respondent directed the Mandal Revenue Officer, Bhamini-second respondent herein, to cancel the pattadar passbooks issued to Brindavan Chandraswamy Math (Math) prefixing the name of the petitioner in respect of the lands owned by the Math at Gurandi and Bathili villages, as it is objectionable. It is further stated in the said order that the Endowments Department intends to sell the said lands and accordingly the second respondent was asked to send the basic value and market value certificates with regard to the said lands.

The case of the petitioner is that Brindavan Chandraswamy Math was situated at Bathili and originally one Sri Bijoy Krishna Das Goswamy was its Mahant. The Math has agricultural lands in Bathili and Gurandi villages in an extent of Acs.100.00 and the revenue yield from out of the said lands has been used for upkeep and maintenance of the said Math. During the life time of the said Mahant, i.e, Bijoy Krishna Das Goswamy, he executed a will dated 04.04.1988 nominating the petitioner as a trustee of the Math and after the death of the original Mahant, petitioner addressed a letter to the first respondent, to recognize him as the Mahant and accordingly, the first respondent also issued proceedings dated 02.07.1991, recognizing the petitioner as the Mahant of the said Math. Thereafter, on an application given by the petitioner, pattaar passbooks bearing Nos.197 and 240 were issued, wherein the name of the agriculturist is mentioned as “Brindavan Chandraswamy, Trustee Narothama Das Goswamy”. While so, the first respondent issued an order of suspension of the petitioner and also a show cause notice, calling upon the petitioner to show cause as to why disciplinary action shall not be taken against him. Aggrieved thereby, petitioner preferred an appeal before the fourth respondent, and the fourth respondent set aside the order of suspension of the petitioner. Be that as it may, the first respondent passed an order dated 27.04.2000 directing the second respondent to cancel the pattadar passbooks issued to the Math prefixing the name of the petitioner and to issue the fresh passbooks exclusively in the name of the Math, with a view to send proposals to the fourth respondent to accord permission to sell the lands belonging to the Math to the District S.C. Corporation, Srikakulam. On receipt of copy of the said proceedings, petitioner approached the respondent-authorities and as there was no response, he filed the instant writ petition.

A counter-affidavit is filed on behalf of the respondents stating that the petitioner is only a trustee and he cannot be treated as Mahant, that

he managed to get his name incorporated in the pattadar passbooks, and that as he was doing mischief, as if he is the absolute owner of the lands of the Math, the authorities were constrained to issue the proceedings impugned.

Heard the learned counsel for the petitioner, the learned Government Pleader for Revenue and the learned Government Pleader for Endowments.

In the light of the rival contentions of both the parties, it is necessary to extract relevant provisions of law i.e, Sections 2(17), 2(29) and 54 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (the Act, for brevity), which is as under:.

> Section 2(17) : Math means a Hindu Religious Institution presided over by a person, whose principal duty is to engage himself in the teaching and propagation of Hindu religion and philosophy or the teachings and philosophy of the denomination, sect or sampradaya to which the math belongs and in imparting religious instruction and training and rendering spiritual service or who exercises or claims to exercise spiritual headship over a body of disciples; and includes any place or places of religious worship, instruction or training which are appurtenant to the institution.
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> Section 2(29): Trustee means any person whether known as mathadhipathi, mahant, dharmakarta, mutawally, muntazim or by any other name, in whom either alone or in association with any other person, the administration and management of a charitable or religious institution or endowment are vested; and includes a Board of Trustees.
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> Section 54: Nomination of mathadhipathi : 1) Subject to the provisions of Section 53, a mathadhipathi may nominate his successor. The fact of such nomination shall be intimated to the Commissioner, within ninety days of such nomination and the Commissioner may recognize such nomination. A nomination shall not be complete unless it is recognized by the Commissioner. The conditions for recognition shall be such as may be prescribed.
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> 2) Where a Mathadhipathi fails to nominate his successor

> under sub-section (1) or where there is no mathadhipathi, the Commissioner or any officer authorized by him shall after due publication convene a meeting with the mathadhipathis of other maths of the same sampradayam and the disciples of the math and recognize the person nominated in such meetings as a mathadhipathi subject to the provisions of this Act. The procedure for convening the meeting and method of publication shall be such as may be prescribed.

So as per Subsection (29) of Section 2 of the Act, Mahant is a trustee of the math in relation to the management of the property of the math or the specific endowment attached to the math. In the light of the above provisions of law, it is clear that the petitioner can not only be treated as Mahant, but also a trustee and there is no ambiguity as a trustee. Further, under Section 54 of the Act, mathadhipathi is conferred with the power to nominate his successor, and the same shall be recognized by the Commissioner of Endowments. Petitioner was nominated as mathadhipathi by the original Mathadhipathi-Bijoy Krishna Das Goswamy, and it was also accepted by the first respondent by his proceedings in Ro.No.A3/1775/90, dated 02.07.1991. Therefore, this Court is of the view that the proceedings, dated 27.04.2000 issued by the first respondent directing the second respondent to delete the name of the petitioner from the pattadar passbooks issued to the Math, cannot be sustainable.

Accordingly, the writ petition is allowed setting aside the impugned proceedings dated 27.04.2000 issued by the first respondent. However, a perusal of the pattadar passbooks bearing Nos.197 and 270, issued in the name of the Math, creates an impression that the lands mentioned therein belong to the petitioner alone. Hence, the second respondent is hereby directed to issue pattadar passbooks clearly indicating that the lands in question belong to Brindavan Chandraswamy Math, represented by its Mahant, i.e., the petitioner herein, so that neither the Endowments Department nor the petitioner herein can do any mischief, whatsoever. There shall be no order as to costs.

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sh 26.07.2007